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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

W1200-00066

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on March 9, 2006

Signature

Typed or printed name Joseph A. Powers

Application Number

10/660,307

Filed

September 10, 2003

First Named Inventor

Aman Safaei et al.

Art Unit

3623

Examiner

Johnna Loftis

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the



applicant/inventor.



assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)



attorney or agent of record. 47,006

Registration number _____



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Registration number if acting under 37 CFR 1.34 _____

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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

Application Serial No. 10/660,307

ATTORNEY DOCKET NO.: W1200-00066



REASONS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 1-17, 19-35 and 37-40 are presently pending as set forth in the September 1, 2005 Response to the June 1, 2005 Official Action (hereinafter, "September 2005 Response"). In January 5, 2006 Response to the November 9, 2005 Final Office Action (hereinafter, "Response to Final Rejection"), Applicants amended the features of dependent Claims 4 and 27 into independent Claims 1 and 24. The January 18, 2006 Advisory Action states that these amendments were not entered.

The Final Rejection rejected all claims as being obvious in view of Microsoft's MapPoint software, relying primarily on Baker, "Divide and Conquer."

Applicants request consideration of the following points in the Pre-Appeal Brief Examiners Conference.

A. "unique identifiers indicating types of lottery games sold by respective lottery retailers"

Independent Claims 1 and 14, and their dependent claims, recite the step of assigning through a processor unique identifiers to said plurality of lottery retailers, **said unique identifiers indicating types of lottery games sold by respective lottery retailers** from said plurality of lottery retailers. These unique identifiers are then displayed on a map display. The lottery retailers are identified *by the kinds of games they sell*. Lottery retailers that sell the same kinds of games are assigned the same unique identifiers. Lottery retailers that sell different kinds of games are assigned different unique identifiers for use in the display. Figure 4 of the present application shows an example of individual unique identifiers being assigned to identify retailers by the type of product sold, e.g., a first identifier for instant ticket sale only, a second identifier for instant ticket and on-line lottery sales, etc.

The Examiner relies on the Baker reference for teaching or suggesting this feature. Applicants submit that Baker does not teach or suggest this feature for at least the reasons argued in the Response to Final Rejection, § III.B.1.

B. “identifying an indication of a location of at least one existing non-lottery retailer on said map display”

As discussed in previous responses, dependent Claims 4 and 27 and independent claims 14 and 24 require that locations of a lottery retailer or retailers and at least one existing non-lottery retailer be displayed on a map display.

As also discussed in the previous responses, an “existing non-lottery retailer” is an existing, as opposed to a hypothetical, retailer location, meaning the entity is an on-going “retailer” entity (i.e., an operating retailer such as an operating convenience store) that does not yet sell/distribute lottery game(s) (i.e., a “non-lottery” retailer).

In the Final Rejection, the Examiner relied on the Avon example from the Baker article for providing this feature. In the Response to Final Rejection, § III.B.2, Applicants argued that this feature was not inherently taught by the Baker reference as suggested by the Examiner. Essentially, Applicants argued that the Avon method of using the mapping software does not inherently (i.e., necessarily) require the mapping of non-Avon retailer locations along with Avon retailer locations. These arguments are incorporated by reference herein for consideration.

In the comments portion of the Advisory Action, the Examiner does not rely on the Avon example of Baker from the Final Rejection, but rather cites (for the first time) to a banking example from the article. The entirety of the banking example disclosure from Baker is as follows:

Other mapping possibilities are generic to businesses of all sizes, including the way Manufacturers and Traders Trust analyzes demographic data to display concentrations of customers meeting age and income criteria that can be used to develop new banking products and promotions for specific market groups. A Buffalo-based financial institution also uses mapping software to scout out

new branch locations.
Baker, pp 3-4.

In the Advisory Action, the Examiner states, "Basically, the mapping software help[s] the banks introduce new products into their line based on demographic data, so inherently if the decision is being made to introduce a new product into the bank, the mapping software is displaying a bank(s) that does not already carry the product."

The Manufactures and Traders Trust (hereinafter, "MTT") banking example of Baker now relied on by the Examiner only necessarily discloses display of "demographic data." Like the Avon example, the MTT example does not expressly state that existing bank locations are mapped on the display nor does it inherently (i.e., necessarily) require existing bank locations to be displayed. A bank could use separate branch location information, such as zip code or general institutional knowledge, to cross-reference the displayed demographic data against existing branch locations.

Second, even assuming for arguments sake that the MTT bank example cited by the Examiner does display existing branch locations as a part of the process, and somehow distinguishes these locations by the products they sell, the claims require the identification of "non-lottery [or bank in the Examiner's example] retailers." Clearly, if a decision is being made to "introduce a new product into the bank" as noted by the Examiner, a display of a non-bank location would be of no use. The MTT banking example of Baker would display only existing branch locations, albeit differentiated by the products each branch sells. It would not display retailers that do not sell banking products at all, i.e., a non-bank retailer (e.g., a gas station).

The second banking example -- the Buffalo-based bank example -- of the Baker reference provides that the bank uses the software to "scout out new branch locations." No more details are provided. Applicants submit that this usage of mapping software by the Buffalo bank also does not necessarily require the display of non-bank locations on the map display as suggested by the Examiner. Simply, the bank can use other methods of identifying possible branch locations that do not require the identification of non-bank retailer locations. For example, the

Buffalo bank could identify several areas that do not already have branch locations by simply mapping their existing branch location, and then doing an independent survey of the area, traffic patterns, income data, undeveloped sites, etc. without ever mapping existing non-bank (lottery) retailer locations on a map display along with existing bank (lottery) retailer locations as recited in the claims.

In summary, it is clearly possible that the bank uses the tool to just identify geographic holes in their branch locations, possibly coupled with the display of demographic data. Such a method would not display “non-bank” locations, i.e., it is not likely that a bank would, for example, see where other existing businesses are located (e.g., a gas station) and then ask these businesses to sell their banking products or to become a branch location. Put another way, the Buffalo bank would likely have no interest at all in identifying retailer locations, such as convenience stores, gas stations, etc. because they are not candidates for selling banking products. For these reasons, it is submitted that the Baker reference does not inherently require the display of non-lottery retailer locations on the map display as suggested by the Examiner.

C. Summary

Because the art of record does not teach each feature of Applicants’ claimed methods and systems, it is submitted that independent Claims 1, 14, 24 and 33, and their dependent claims, are not obvious over the cited reference and are allowable thereover. It is also submitted that dependent Claims 4 and 27 are independently allowable over the art of record. Reconsideration and withdrawal of the rejection of these claims are respectfully requested.